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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,210	09/09/2003	Janna Collins		2717

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EXAMINER

BROWN, PETER R

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/658,210

Applicant(s)

COLLINS, JANNA

Examiner

Peter R. Brown

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Sowell et al.

Figures 5 and 7 show structure as claimed, including a cover with a seat portion, a handle overlap portion with leg cut-outs 14 and adjustable fastening means 15, a back covering portion 4 with securing means, two side cart overlap portions 10,12, and a seat belt 21. Note the cover is made of a sandwiched fabric with interior cushioning, as shown in figure 11.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sowell et al in view of Gibson.

In regards to claim 2, to have provided the handle overlap portion of the Sowell et al cover with securing means for playthings, would have been obvious to

one with ordinary skill in the art, as such is shown to be conventional by Gibson (fig. 5), thereby preventing the playthings from falling.

Regarding claim 4, figures 8-10 of Sowell et al show a sample of the plurality of fastening means that may be utilized to secure the cover to the shopping cart, and to have formed the fastening mean for the side portions as conventional loop and button engagements, would have been an obvious modification to one with ordinary skill in the art, as such are old and well known and readily interchangeable for the fastening means shown.

In regards to claim 5, note that Gibson teaches the provision of a pocket 40 on the seat cover. To have provided the seat cover of Sowell et al with such a pocket, for storage purposes, would have been obvious to one with ordinary skill in the art. The number of pockets and the location thereof is considered a matter of design choice and obvious mechanical expediency.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sowell et al in view of Kucharczyk et al.

While the patent to Sowell et al discloses Velcro for fastening purposes (fig. 10), it is not clear whether these are elongated strips that interengage. However, the patent to Kucharczyk et al (figs. 1,2) shows the conventionality of utilizing elongated strips of Velcro material for engagement between a cover and shopping cart, and to have used such for the seat cover of Sowell et al would have been well


within the level of skill in the art. The orientation of the strips is considered a matter of design choice and not a patentable distinction.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Houllis, Rogers et al, Smith et al, Peyton, Norman and Endicott et al, and Allbaugh show various features of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter R. Brown whose telephone number is 703-308-2103. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Peter R. Brown  
Primary Examiner  
Art Unit 3636

prb